



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

N\$6.60

WINDHOEK - 28 March 2020

No. 7159

CONTENTS

Page

PROCLAMATION

No. 9 State of Emergency - COVID-19 Regulations: Namibian Constitution 1

Proclamation

by the

PRESIDENT OF THE REPUBLIC OF NAMIBIA

No. 9

2020

STATE OF EMERGENCY - COVID-19 REGULATIONS: NAMIBIAN CONSTITUTION

Under the powers vested in me by Sub-Article (5) of Article 26 of the Namibian Constitution, I, subsequent to having declared by Proclamation No. 7 of 18 March of 2020 that a State of Emergency exists in the whole of Namibia following a worldwide outbreak of the disease known as Coronavirus Disease 2019 (COVID-19), make the regulations set out in the Schedule.

Given under my Hand and the Seal of the Republic of Namibia at Windhoek, this 28th day of March, Two Thousand and Twenty.

HAGE G. GEINGOB

President

BY ORDER OF THE PRESIDENT

SCHEDULE**ARRANGEMENT OF REGULATIONS**

1. Definitions
2. Conflict of laws
3. Restricted areas and period of lockdown
4. Closure of schools and higher education institutions
5. Public gatherings
6. Prohibition relating to travel and permit requirement
7. Prohibition relating to entry into Namibia
8. Quarantine
9. Restriction on movement of persons
10. Critical services
11. Prohibition relating to sale of alcohol
12. Prohibition relating to certain operations and closure of certain businesses
13. Judicial proceedings
14. Directives
15. Applicability of Act No. 1 of 2015
16. Offences and penalties
17. Regulations to bind State
18. Application of regulations

ANNEXURE A RESTRICTED AREAS
ANNEXURE B CRITICAL SERVICES

Definitions

1. In these regulations -

“authorised officer” means -

- (a) the Director referred to in section 32 of the Disaster Risk Management Act, 2012 (Act No. 10 of 2012);
- (b) a member of the Namibian Police as defined in section 1 of the Police Act, 1990 (Act No. 19 of 1990);
- (c) a member of the Defence Force as defined in section 1 of the Defence Act, 2002 (Act No.1 of 2002);
- (d) a correctional officer as defined in section 1 of the Correctional Service Act, 2012 (Act No. 9 of 2012);
- (e) an immigration officer as defined in section 1 of the Immigration Control Act, 1993 (Act No. 7 of 1993);
- (f) an officer as defined in section 1 of Customs and Excise Act, 1998 (Act No. 20 of 1998); charged with the responsibility of enforcing the customs and excise legislation; and
- (g) any other staff member designated or person appointed as an authorised officer under section 32 of the Disaster Risk Management Act, 2012 (Act No. 10 of 2012);

“critical services” means services listed as critical services in Annexure B;

“head of the institution” means the accounting officer of a public institution and the chief executive officer or the equivalent of a chief executive office of a private institution;

“higher education institution” means a higher education institution as defined in section (1) of the Higher Education Act, 2003 (Act No. 26 of 2003);

“Immigration Control Act” means the Immigration Control Act, 1993 (Act No.7 of 1993);

“institution” means a public or private institution that is engaged in the distribution, supply or sale of essential goods or services;

“lockdown” means the restriction of movement of persons during the period specified in regulation 3(3);

“school” means a school as defined in section 1 of the Education Act, 2001 (Act No. 16 of 2001);

“quarantine” means separating asymptomatic individuals potentially exposed to a disease from non-exposed individuals in such a manner as to prevent the possible spread of an infection or contamination; and

“vehicle” means any motor vehicle, aircraft or vessel.

Conflict of laws

2. If there is a conflict between a provision in a law and these regulations the provisions of these regulations prevail.

Restricted areas and period of lockdown

3. (1) For the purposes of these regulations the areas specified in Annexure A are restricted areas.

(2) The President may by way of amendment to these regulations amend Annexure A, by adding an area or by removing an area.

(3) The period of lockdown starts at 14:00 on Saturday 28 March 2020 and ends at 23:59 on 17 April 2020, inclusive of the first and the last day.

Closure of schools and higher education institutions

4. All schools and higher education institutions in Namibia must remain closed during the period starting 28 March 2020 and ending 17 April 2020, but the relevant minister responsible for education may at any time extend that period during the State of Emergency period.

Public gatherings

5. (1) For the purpose of this regulation, a “public gathering” is a gathering of more than 10 persons for a collective purpose, but does not include a situation where such number of persons coincidentally find themselves at a specific place at the same time.

(2) An authorised officer may instruct a public gathering to disperse and may use all reasonable measures to cause a public gathering to disperse.

(3) A person who during the period of lockdown facilitates, instigates or organises a public gathering, commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(4) A person who fails or refuses to obey an instruction issued under subregulation (2) commits an offence and is on conviction liable to the penalties provided for in subregulation (3).

Prohibition relating to travel and permit requirement

6. (1) During the period of lockdown, a person may not -

- (a) enter into or depart from a restricted area; or
- (b) travel from one restricted area to another restricted area.

(2) A person who contravenes or fails to comply with subregulation (1) commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or to imprisonment for a period of six months or to both such fine and such imprisonment.

(3) If an authorised officer finds a person under circumstances which create a reasonable suspicion that the person is likely to contravene subregulation (1), that authorised officer may instruct the person to stop the journey in question and failure to obey such an instruction is deemed to be a contravention of, or failure to comply with, subregulation (1), and that person is liable to the penalties provided for in subregulation (2).

(4) A person -

(a) who holds a permit referred to in subregulation (5) does not contravene subregulation (1) if he or she enters or departs or travels as contemplated in that subregulation; and

(b) referred to in subregulation (6) does not contravene subregulation (1) if he or she enters or departs or travels as contemplated in that subregulation.

(5) If a person has to travel to a restricted area or depart from a restricted area, for -

- (a) purposes of receiving essential medical treatment;
- (b) purposes of attending a funeral of a close family member, an acquaintance or a dependant;
- (c) purposes of assisting a close family member, acquaintance or dependant who is ill or otherwise suffers from a distressing situation;
- (d) any other reason which an authorised officer considers sufficient to warrant the travelling,

that person may obtain a permit from an authorised officer nearest to that person or at the point of entry into or exit from a restricted area, authorising travel which would otherwise have been a contravention of subregulation (1).

(6) A person is exempted from the requirement of obtaining a permit to travel as contemplated in subregulation (5), if that travel is necessary to -

- (a) transport goods during the course of business or trade;
- (b) perform an action necessary for the enforcement of law or public order;
- (c) perform any service necessary to provide medical or health services;

- (d) facilitate the distribution of food or other necessities of life;
- (e) maintain or repair infrastructure necessary or useful for the provision of water, electricity, communication or financial services; or
- (f) to perform any other critical service that cannot reasonably be postponed.

Prohibition relating to entry into Namibia

7. (1) Subject to subregulation (2) and (3), every person who -
- (a) is not a Namibian citizen;
 - (b) does not hold a permanent residence permit for Namibia;
 - (c) is not domiciled or ordinarily resident in Namibia;
 - (d) is not part of team of medical personnel that is required to provide medical services in Namibia to alleviate the COVID-19 pandemic;
 - (e) is not a member of the diplomatic or consular staff of a country that is accredited to Namibia or in transit to another country; or
 - (f) is not a spouse or child of a person referred to in paragraphs (a) to (e),

must, during the period of lockdown, be refused entry into Namibia under section 10 of the Immigration Control Act.

- (2) Subject to the Immigration Control Act, a person who -
- (a) is a driver of a vehicle transporting goods;
 - (b) performs any service relating to the operation of the vehicle referred to in paragraph (a); or
 - (c) performs a necessary service relating to such transport referred to in paragraph (a),

in the course of business or trade or commerce may be allowed to enter Namibia during the period of lockdown if such entry is otherwise lawful.

(3) Despite the provisions of subregulation (1), a person who does not fall under any of the categories referred to in that subregulation may be allowed to enter into Namibia if that person complies with or meets such requirements as may be determined by the Minister responsible for immigration in directives issued under these regulations or pursuant to the Immigration Control Act.

Quarantine

8. (1) Any person who enters Namibia as contemplated in regulation 7 may be admitted on condition that that person complies with such quarantine arrangements as may be agreed between that person and an authorised officer that authorises the entry of that person into Namibia.

(2) The provisions incorporated into these regulations by regulation 15, relating to the enforcement of quarantine, are applicable to a person referred to in subregulation (1).

Restriction on movement of persons

9. For the period of lockdown, every person must be confined to his or her place of residence, except for any of the following reasons -

- (a) performing a critical service;
- (b) obtaining essential goods or services;
- (c) seeking medical attention;
- (d) visits to pharmacies, food supply stores, courts or banks; or
- (e) for physical exercise: Provided that the number of person does not exceed three persons.

Critical services

10. (1) The services listed in Annexure B are critical services.

(2) The President may by way of amendment to these regulations amend Annexure B, by adding a service as a critical service or by removing a service listed as a critical service.

(3) The head of the institution involved in the provision of a critical service or a person delegated by the head of the institution must determine -

- (a) the essential service to be performed for the period of the lockdown; and
- (b) the staff members who must perform the critical service for the period of lockdown.

(4) After making a determination in terms of subregulation (3), the head of the institution or a person contemplated in that subregulation must issue a document to every staff member who is to perform the critical service.

(5) The document referred to in subsection (4) -

- (a) must specify the name and surname of the staff member, the identification number of the staff member and the critical service and the name of the institution in sufficient detail; and
- (b) be signed by the head of the institution or the person.

(6) A person performing a critical service must show the document issued to him or her in terms of subregulation (5) to an authorised officer or any person in relation to whom he or she may seek to perform a function.

(7) A person performing a critical service and while performing such services as obtaining essential goods and services may be screened for COVID-19, by an authorised officer.

Prohibition relating to sale of alcohol

11. (1) A person may not sell alcohol during the period of lockdown.

(2) A person who contravenes subregulation (1) commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Prohibition relating to certain operations and closure of certain businesses

12. (1) For the period of lockdown -

- (a) all shops and businesses must be closed, except those classified as critical services;
- (b) all open markets, informal trading activities, shebeens, bars, pubs and nightclubs may not operate;
- (c) restaurants, cafes and coffee shops may remain open: Provided that they only provide take away services.

(2) A person who contravenes subregulation (1) commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Judicial proceedings

13. (1) During the period of lockdown, the Chief Justice may issue directions to -

- (a) suspend, extend or relax the procedure and time periods prescribed in the High Court Act, 1990 (Act No. 16 of 1990) and Magistrate's Courts Act, 1944 (Act No. 32 of 1944) and the rules of High Court or a Magistrates' Court;
- (b) stay prescription in terms of the Prescription Act, 1969 (Act No. 68 of 1969); and
- (c) address, prevent and combat the spread of COVID-19 in all courts in Namibia.

(2) Directions issued under subregulation (1) must be regarded, and have the same effect, as directives issued under regulation 10.

Directives

14. (1) The President may authorise a minister to issue directives for the purpose of -

- (a) supplementing or amplifying on any provision of these regulation; or
- (b) ensuring that the objectives of these regulations are attained.

(2) A directive issued under this regulation has the force of law and may deal with any matter that is within the ambit of any legislation or other law that is administered by the Minister concerned.

(3) Any directive issued under this regulation must be -

- (a) referred to the Attorney-General for approval; and
- (b) published in the *Gazette*,

for it to have the force of law.

(4) A directive issued in terms of these regulations becomes effective on the date of its publication in the *Gazette*.

(5) A directive may create offences for contraventions of, or failure to comply with, the directive and provide for penalties of a fine not exceeding N\$2 000 or imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Applicability of Act No. 1 of 2015

15. (1) The provisions of Part 3 of the Public and Environmental Health Act, 2015 (Act No. 1 of 2015) are deemed to be incorporated into these regulations.

(2) Despite the provisions of section 22(2) of the Public and Environmental Health Act, 2015 (Act No. 1 of 2015) the disease caused by the virus known as Covid-19 is deemed to be a formidable epidemic disease and it is deemed that the threatened outbreak of the said disease necessitates the measures referred to in section 29(1) of that Act.

Offences and penalties

16. (1) A person commits an offence if that person -

- (a) not being an authorised officer, by words, conduct or demeanour falsely represents himself or herself to be an authorised officer;
- (b) hinders, obstructs or improperly attempts to influence an authorised officer when exercising or performing a power or function conferred or imposed by or under these regulations or another law;
- (c) furnishes or gives false or misleading information to an authorised officer;
- (d) does anything calculated to improperly influence an authorised officer concerning a matter connected with the functions of the authorised officer.

(2) A person convicted of an offence in terms of subregulation (1) is liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Regulations to bind State

17. These regulations bind the State.

Application of regulations

18. These regulations apply to the whole of Namibia except where otherwise provided.

ANNEXURE A
(Regulation 3(1))

RESTRICTED AREAS

1. The Khomas region together with -
 - (a) the local authority areas of Rehoboth and Okahandja; and
 - (b) the tarred roads connecting Windhoek with Okahandja and Windhoek with Rehoboth as well as the strips of five kilometres on either side of the tarred roads.
2. The Erongo region.

ANNEXURE B
CRITICAL SERVICES
(Regulation 10(1))

PART 1

1. Ambulance services
2. Casualties services
3. Theatre Services
4. Intensive Care Unit (ICU) services
5. Hospital Wards
6. Laboratory Services
7. Pharmaceutical services
8. Dental Services
9. Radiography services
10. Physiotherapy service
11. Mortuary services
12. Medical services including medical specialized services
13. Hospital Kitchen Services
14. Hospital laundry services
15. Emergency management services
16. Disaster management services
17. Portable water services
18. Waste water Management services
19. Scientific services
20. Electricity distribution services
21. Electricity operation services
22. Electricity maintenance services
23. Electricity transmission services
24. Electricity network operation services
25. Electricity system operation services
26. Electricity system security and planning services
27. Electricity engineering services
28. Electricity energy trading services
29. Air navigation services
30. Air traffic management services
31. Communication navigation and surveillance system services
32. Search and rescue services
33. Aeronautical information services Meteorological services for air navigation services

PART 2

- 1. Agriculture, forestry and fishing**

Agricultural Production and value chains (Animal husbandry, Agronomic and horticulture) supply related operations, including farming, veterinary and phyto-sanitary provider services, pest control services, feed and chemical and fertilizer remedies providers. Millers & logistics services.

2. Fishing

Vessel and fishing processing plants maintenance and service providers.

3. Mining and quarrying

Related operations to maintain minimal mining operations and critical maintenance work.

4. Manufacturing

Manufacturing of health related products, hygiene and sanitary related products, supplies, devices, equipment, and medicines, including complementary health products and supplements; food, non-alcoholic beverages and essential products, as well as essential inputs thereto. This includes production for exporting the same product categories. Production for disposable health and hygiene and sanitary related products, as well as for the production of packaging for essential health and food supply chains. Food, beverages and essential products manufacturing and processing facilities, to the extent they are supporting essential or critical business continuity services to the fight of COVID-19.

5. Electricity, gas, steam and air conditioning supply

Public and private organisations, their staff and service providers essential to the generation, transmission and distribution of electricity, gas, steam and air conditioning will need to continue to operate. This includes municipalities, and the suppliers of logistics, feedstock and maintenance will be required to continue to operate and provide security of electricity supply.

6. Water supply, purification, desalination, sewerage, waste management and remediation activities

Public and private organisations, their staff and service providers essential to the security of supply of bulk and potable water and sanitation must continue to operate and provide vital water and sanitation services. This includes municipalities and those involved in the supply of materials, chemicals and related equipment.

7. Construction

Any maintenance support requirements for retailers, manufacturers producing essential goods, support to medical services; plumbing and electrical services, security installations and maintenance, water treatment and sewerage. Building of medical infrastructures and quarantine camps in support of essential or critical business continuity services to the fight of COVID-19.

8. Wholesale and retail trade; repair of motor vehicles and motorcycles

Retail, wholesale, supermarkets / home kiosks for food and essential products. Essential hygiene products include: toilet paper, cleaners, sanitizers and disinfectants, personal

hygiene products, and essential supplies for those taking care of the sick and elderly and in order for people to remain healthy. All services related to the repair of motor vehicles and motorcycles to continue in as far as are providing support to the fight of COVID-19.

9. Transportation, logistics and storage

Warehousing, transport, distribution, cold storage and logistics for food & essential products, production inputs and health related goods. This includes operations at all entry points. Humanitarian and relief functions in the fight of COVID-19 will be permitted.

10. Accommodation and food service activities

To the extent that they are supporting essential or critical business continuity services to the fight of the COVID-19 subject to take away and not dining in restaurants.

11. Information and communication

Communication and media services on screen, TV, radio, print, broadcast and online.

12. Legal, Financial, Banking and insurance activities

Legal, court, financial, banking and insurance services and health funders required to finance and support essential and critical business continuity and provide short term bridging finance to people and businesses during this period.

13. Professional, scientific and technical activities

Professional scientific and technical services, to the extent that they are providing support in the COVID-19 response, essential and critical services.

14. Administrative and support service activities

Private and public services to the extent that they are providing support in the COVID-19 response, essential and critical business continuity services.

15. Public administration and defense; compulsory social security

Personnel to the extent that they are providing support in the COVID-19 response, essential and critical business continuity services. Safety and security services protecting people and property.

16. Human health and social work activities

All centers providing life and health services; energy, food and water supply, social, transactional, communications, law and order & international critical business continuity services.

17. Information communications technology

Data centers, fiber optic infrastructure, towers and antennae will need to operate at high efficiency to ensure connectivity remains stable during the lockdown.
